

on an abstract of the Fondren article. Applicants have now been able to locate a complete copy of this article and are enclosing it herewith in an IDS.

After reviewing the complete copy of Fondren, Applicants continue to respectfully traverse this rejection for the reasons stated in Amendment C and for the following additional reasons.

In the article, Fondren discloses the use of xanthene dyes at a concentration of 3×10^{-3} M in a 2% milk-sugar solution. (see p. 891, col. 1, "Materials and Methods" in Fondren). Clearly, what is disclosed in the reference is not a pharmaceutical delivery vehicle and the disclosed solution is not an intracorporeal medicament, as recited in the claims of the present application. Instead, Fondren is discussing use of these xanthene dyes in a milk-sugar solution as insecticides, not as pharmaceutical compositions.

Further, as explained in Amendment C and confirmed in reviewing the entire reference, there is no discussion or suggestion in Fondren of sodium or potassium salt forms of the dyes, as required in the claims of the present application.

In addition, Fondren also has no disclosure or suggestion of a radiosensitizer or radiosensitization, for which the claims of the present application are directed. For example, Figures 1 and 3 in Fondren show that mortality of flies is proportional to absorbed photons produced by a Sylvania Sunlamp. Such a light source does not emit ionizing radiation having an energy of greater than 1 keV, as required in the claims of the present application. Moreover, Fondren notes in the "Materials and Methods" section (p. 891, col. 1-2) that a Plexiglas cover is used between the light source and the "flies to eliminate ultraviolet light."

Hence, Fondren does not describe or suggest the claimed pharmaceutical compositions, medicaments, and uses, nor does the reference in any way disclose or suggest the unexpected benefit

achieved by the claimed compositions, medicaments and uses of the present application. In fact, there is no disclosure or suggestion of relevance to radiosensitizers in Fondren, and one skilled in the art would not rely on the teaching in Fondren for radiosensitization, which is the claimed subject matter of the present application.

Accordingly, the rejected claims are patentable over the cited reference, and it is respectfully requested that this rejection be withdrawn.

Claim Rejections - 35 USC §103 (Serafini, Neckers or Fondren)

The Examiner further rejects Claims 2 and 30 under 35 U.S.C. § 103(a) as being unpatentable over Serafini or Neckers or Fondren. Applicants continue to respectfully traverse this rejection.

Applicants explained in Amendment C why there are substantive differences between the claimed invention and the respective teachings in Serafini, Neckers or Fondren.

With regard to Fondren, Applicants explained that Fondren fails to teach or suggest a radiosensitizer pharmaceutical composition or medicament that contains Rose Bengal or any other halogenated xanthene, that Fondren fails to teach or suggest the radiosensitizer properties of the claimed pharmaceutical compositions or medicaments, and that the teachings in Fondren are not relevant to the patentability of the claimed concentrations of halogenated xanthenes in the present invention.

These statements are only reinforced by the above explanation of the non-relevance of Fondren based on the complete article.

Hence, for the reasons stated in Amendment C and herein, Applicants respectfully request that this rejection be withdrawn.

Claim Rejections - 35 USC §103 (in view of Khaw)

The Examiner also rejects Claims 6, 13, 21, 34, 40 and 49 under 35 U.S.C. §103(a) as being unpatentable over Serafini or Neckers or Fondren in view of Khaw. For substantially the same reasons discussed above, Fondren continues to have no bearing to the claimed invention and combining it with Khaw still fails to yield the claimed invention (even if such combination is proper, which Applicants do not admit).

Therefore, it is respectfully requested that this rejection be withdrawn.

Conclusion


For at least the above-stated reasons and the reasons stated in Amendment C, it is respectfully submitted that the claims of the present application are in an allowable form and are patentable over the cited references. Accordingly, it is requested that the application now be allowed.

If any fee should be due for this supplement, please charge our deposit account 50/1039.

Favorable reconsideration is earnestly solicited.

Respectfully submitted,

Date: *September 22, 2004*



Mark J. Murphy
Registration No. 34,225

COOK, ALEX, McFARRON, MANZO,
CUMMINGS & MEHLER, Ltd.
200 West Adams Street, Suite 2850
Chicago, Illinois 60606
(312) 236-8500